

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

OCT 15 1996

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matters of )  
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Implementation of the )  
Telecommunications Act of 1996 )  
 )  
Reform of Filing Requirements )  
and Carrier Classifications )  
 )  
Anchorage Telephone Utility, )  
Petition for Withdrawal of Cost )  
Allocation Manual )

CC Docket No. 96-193

AAD 95-91

COMMENTS OF TELEPORT COMMUNICATIONS GROUP INC.

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## **SUMMARY**

In this proceeding, the Commission should clarify that its proposals for carrier reporting requirements are intended to apply only to incumbent local exchange carriers ("ILECs") and not competitive local exchange carriers ("CLECs"). This type of data has never been collected from CLECs. Moreover, CLECs do not have the capability that ILECs do for illegal cross-subsidizations, and thus, do not require monitoring for such practices. Therefore, reporting requirements affected by this proceeding should not be imposed on CLECs.

In the event that the Commission is considering the collection of data from CLECs, it should initiate and complete a separate rulemaking proceeding before doing so. It is essential that this issue first be addressed in a separate rulemaking that gives interested parties, particularly CLECs, notice and an opportunity to participate.

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To: The Commission

**COMMENTS OF TELEPORT COMMUNICATIONS GROUP INC.**

Teleport Communications Group Inc. ("TCG") hereby submits its comments in response to the Commission's Notice of Proposed Rulemaking in the above-referenced proceeding.<sup>1</sup> First, the Commission should clarify that its proposals for carrier reporting requirements are intended to apply only to incumbent local exchange carriers ("ILECs") and not competitive local exchange carriers ("CLECs"). Second, in the event that the Commission is considering the collection of data from CLECs, it should initiate and complete a separate rulemaking proceeding before doing so.

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1. Order and Notice of Proposed Rulemaking, CC Docket No. 96-193, FCC 96-370 (rel. September 12, 1996). This document will be cited as the "Order" when referring to ¶¶ 1-19 and as the "NPRM" when referring to ¶¶ 20-47.

**I. THE COMMISSION SHOULD CLARIFY THAT THE REPORTING REQUIREMENTS IMPLICATED BY THIS PROCEEDING APPLY ONLY TO ILECS**

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Section 402(b)(2)(B) of the Telecommunications Act of 1996 ("1996 Act") requires the Commission to "permit any common carrier . . . to file ARMIS reports annually, to the extent such carrier is required to file such . . . reports."<sup>2</sup> CLECs have never been required to file these reports, and therefore, are not carriers that have been "required to file . . . such reports." The Commission should clarify as part of this proceeding, however, that this and other reporting requirements still apply only to ILECs and not CLECs.

In proposing changes to carrier reporting requirements, the Commission refers to those carriers that are required to file ARMIS reports and cost allocation manuals ("CAMs") primarily as "incumbent local exchange carriers." For example, the Commission states that the carriers required to file a CAM under Section 64.903(a) of its rules are "incumbent LECs with 'annual operating revenues of \$100 million or more.'<sup>3</sup> In addition, the Commission states that "Section 64.903(a) of our rules requires each incumbent LEC with annual operating

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2. 1996 Act, § 402(b)(2)(B) (emphasis added).

3. Order at ¶ 8. By the Order released on September 12, 1996, the Commission has adjusted the operating revenue requirements for inflation on an interim basis in accordance with Section 402(c) of the 1996 Act. See id. at ¶¶ 10-14.

revenues equal to or in excess of the threshold value to file a cost allocation manual."<sup>4</sup>

While it therefore appears that only ILECs are intended to be subject to the requirements, clarification is needed, however, in light of the Commission's Initial Regulatory Flexibility Analysis, which indicates that the proposed rules will "affect the filing requirements for new LECs entering the local exchange market" to the extent that a new entrant's revenues exceed the established threshold.<sup>5</sup> The 1996 Act makes a clear distinction between ILECs and CLECs. Section 251(h) of the 1996 Act defines an ILEC as a local exchange carrier that was providing telephone exchange service at the time of enactment and was or became by successor or assign a member of NECA.<sup>6</sup> This basic principle established by Congress — that the introduction of competition into the local exchange service markets requires different treatment of differently situated carriers — should also apply here. Therefore, the Commission should clarify in this proceeding that ARMIS and CAM reporting requirements currently apply only to ILECs, regardless of CLEC operating revenues, consistent with the pro-competitive policies

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4. Id. at ¶ 18 (discussing ATU's motion to withdraw its cost allocation manual).

5. NPRM at ¶ 44.

6. 47 U.S.C. § 251(h)(1).

implemented by the 1996 Act and the Commission's determination that CLECs should not be made subject to regulatory requirements intended for ILECs.<sup>7</sup>

In any event, TCG agrees with the Commission's tentative conclusion that ARMIS reports must still be collected "from those incumbent LECS for which annual operating revenues, both regulated and nonregulated, exceed a defined . . . threshold."<sup>8</sup> TCG agrees that it is essential for the development of competition in local exchange service markets that the Commission be able to monitor ILECs to determine whether they are engaging in illegal cross-subsidization between their regulated and unregulated services. The fact that this type of data has not been collected from CLECs in the past strongly supports the conclusion that CLECs are not obliged to satisfy the ARMIS or CAM reporting requirements, as revised by this proceeding. The Commission should clarify, however, that such obligations do not extend to CLECs. CLECs do not have the capability that ILECs do for illegal cross-subsidizations, and therefore, do not require monitoring for such practices.

**II. THE COMMISSION SHOULD INSTITUTE A SEPARATE RULEMAKING PROCEEDING IF IT CONTEMPLATES APPLYING CERTAIN REPORTING REQUIREMENTS TO CLECS**

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If the Commission does contemplate imposing certain reporting requirements on CLECs, then it must initiate and complete a separate rulemaking to investigate

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7. See Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket 96-98, First Report and Order, FCC 96-325 at ¶¶ 1241-48 (rel. August 8, 1996).

8. See NPRM at ¶ 32.

such a course of action. The Commission has not explored the necessity of requiring CLECs to provide the kind of information that is presently required of ILECs. Clearly, CLECs have no monopoly revenues and are incapable of engaging in discriminatory or unreasonable pricing practices. Therefore, before imposing reporting requirements on CLECs, it is essential that this issue be addressed in a separate rulemaking that gives interested parties, particularly CLECs, notice and an opportunity to address the question of whether the imposition of such requirements would serve any public interest purposes.

### **III. CONCLUSION**

For these reasons, TCG respectfully requests that the Commission clarify that reporting requirements addressed in the NPRM apply only to ILECs. In addition, the Commission should initiate and complete a separate rulemaking proceeding before any reporting requirements are imposed upon CLECs.

Respectfully submitted,



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Dated: October 15, 1996

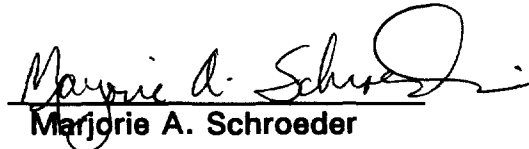
**CERTIFICATE OF SERVICE**

I, Marjorie A. Schroeder, do hereby certify that a copy of the foregoing  
Comments of Teleport Communications Group Inc. were hand delivered on this  
15th day of October, 1996 to the following:

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